

Robert S. Wolf
Direct: 212.554.7825
rwolf@mosessinger.com

June 9, 2017

VIA ECF

Submitted Ex Parte and Under Seal

Hon. Pamela K. Chen
United States District Court Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

**Re: *In Re the Appointment of Pamela K. Chen as Special
Master, Miscellaneous Docket No. 17-1282 (PKC)***

Dear Judge Chen:

We represent Felix Sater (“Mr. Sater” f/k/a “John Doe”) in the above-captioned matter and, as directed by the Court, set forth Mr. Sater’s position with regard to the unsealing of the documents on the docket *United States of America v. Doe*, 10-2905-cr (2d. Cir) (the “Appellate Docket”) in advance of the hearing scheduled for June 15, 2017 at 10:30 AM.

For the reasons described herein and in the Government’s submission filed earlier today, Mr. Sater joins in the Government’s position with respect to all of the documents which they identify to remain under seal, indicating in most respects that only partial redactions are required.

We request additional redactions to certain documents on the Appellate Docket not sought by the Government that refer to: (i) the specific details of Mr. Sater’s Government cooperation [REDACTED]

[REDACTED] (ii) information sourced from Mr. Sater’s stolen presentence investigation report (“PSR”) and financial affidavit; and (iii) information sealed in other proceedings. With regard to documents that refer to these topics, Mr. Sater requests that such documents be redacted and/or sealed, as set forth in more detail below.

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Information Concerning Details of Mr. Sater's Government Cooperation [REDACTED]

The basis for redacting information concerning Mr. Sater's Government cooperation [REDACTED] is Mr. Sater's safety and the integrity of government investigations. *See In re Applications to Unseal 98 CR 1101(ILG)*, 568 Fed App'x 68, 70 (2d Cir 2014) ("Judge Glasser's sealed order lays out the District Court's basis for ongoing sealing—generally, safety of persons or property; integrity of government investigation and law enforcement interests; and protection of cooperator's anonymity.")

Disclosure of documents concerning the details of Mr. Sater's cooperation [REDACTED] [REDACTED] [REDACTED] [REDACTED] would represent "a substantial probability of prejudice to a compelling interest of the defendant, government or third party," such as danger to Mr. Sater and his family, as well as national security concerns and privacy interests, such that redaction of this information is warranted. *United States v. Doe*, 63 F.3d 121, 128 (2d Cir. 1995); *see also United States v. Aref*, 533 F.3d 72, 83-83 (2d Cir. 2008); *United States v. Amodeo*, 71 F.3d 1044, 1050-51 (2d Cir. 1995).

Notably, while certain details of Mr. Sater's cooperation have been revealed due to the improper actions of attorneys Frederick Oberlander and Richard Lerner, whom Judge Cogan *twice* referred to the U.S. Attorney's Office for the Eastern District of New York for criminal investigation, many of the specific details of Mr. Sater's cooperation [REDACTED] [REDACTED] [REDACTED] are not publicly available. [REDACTED]

Mr. Sater's PSR and Other Documents Previously Sealed by the Court

With regard to details contained in Mr. Sater's PSR, Judge I. Leo Glasser of the Eastern District of New York has repeatedly cited *United States v. Charmer Industries, Inc.* 711 F.2d. 1164, 1175 (2d Cir. 1983), holding that, absent a compelling demonstration that disclosure is required to meet the ends of justice, disclosure of the PSR should not be authorized. In particular, Judge Glasser found in this case **“that the PSR, information sourced from the PSR, and the details of the cooperation agreement must remain sealed.”** *In re Motion for Civil Contempt*, 12 Misc. 557 (E.D.N.Y.) (PKC), Dkt. No. 162 at 3 (emphasis added), *aff'd In re Applications to Unseal 98 CR 1101(ILG)*, 568 Fed Appx 68, 70 (2d Cir 2014). Specifically, the Second Circuit stated that Mr. Sater's PSR is “of dubious utility [] except as a tool to intimidate and

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harass [Mr. Sater] by subjecting him to danger.” *Roe v. United States*, 2011 WL 2559016, at *7 (2d Cir. 2011).

More recently, Judge Cogan issued an order on June 21, 2016, unsealing substantially all of the documents in the docket of the case *In re Motion for Civil Contempt*, 12 Misc. 557 (E.D.N.Y.) (PKC), while keeping the documents concerning Mr. Sater’s PSR and the details of his government cooperation under seal. *See In re Motion for Civil Contempt*, 12 Misc. 557 (E.D.N.Y.) (PKC), Dkt. No. 187, Sealing Order at 9 (“the PSR, and any documents containing information sourced from the PSR, must remain sealed.”) Judge Cogan specifically found that “both Sater and the Government have compelling interests, both in Sater’s safety and the integrity of this and future federal investigations. These interests – particularly when viewed in conjunction with one another – are compelling, and the unsealing of these documents would create a substantial probability of harm to those interests.” *Id.* at 11.

In upholding Judge Cogan’s Sealing Order, the Second Circuit held “there is a strong interest in secrecy because both John Doe’s safety as a cooperator and the Government’s interest in protecting the identity of cooperators are implicated. The District Court ... properly determined that sealing was appropriate for John Doe’s PSR, documents containing information sourced from the PSR, documents sealed in related proceedings, and documents submitted by the United States Attorney’s Office addressing the John Doe’s cooperation.” *Doe v Lerner*, 2017 WL 1406457, at *2 (2d Cir Apr. 20, 2017) (internal citations omitted).

In light of the foregoing, Mr. Sater’s position with regard to the documents in the Appellate Docket is as follows:

<u>Docket No.</u>	<u>Position</u>	<u>Basis for Redaction / Sealing</u>
1	Unseal	n/a
2	Unseal	n/a
4	Unseal	n/a
5	Unseal	n/a
7	Unseal	n/a
9	Unseal	n/a
10	Unseal	n/a

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11	Unseal	n/a
19	Unseal	n/a
21	Unseal	n/a
26	Unseal	n/a
27	Unseal	n/a
30	Unseal	n/a
32	Redact	p. 4-5 [REDACTED]
41	Unseal	n/a
45	Unseal	n/a
50	Unseal	n/a
52	Unseal	n/a
55	Redact	p. 10-11 [REDACTED] p. 19-23 [REDACTED]
61	Unseal	n/a
63	Unseal	n/a
64	Redact	p. 5-6 [REDACTED] p. 15-19 [REDACTED]
66	Redact	p. 16 [REDACTED] p. 34 [REDACTED] p. 35 [REDACTED] p. 36-40 [REDACTED]
73	Unseal	n/a
74	Unseal	n/a
77	Unseal	n/a
80	Unseal	n/a

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82	Unseal	n/a
84	Unseal	n/a
85	Redact	p. 10 [REDACTED] p. 42-43 [REDACTED] p. 46 [REDACTED] p. 69 [REDACTED] p. 80-81 [REDACTED]
88	Unseal	n/a
94	Unseal	n/a
96	Unseal	n/a
98	Unseal	n/a
99	Unseal	n/a
102	Unseal	n/a
103	Unseal	n/a
104	Unseal	n/a
109	Unseal	n/a
110	Unseal	n/a
114	Unseal	n/a
117	Unseal	n/a
124	Unseal	n/a
128	Redact	p. 12-19 [REDACTED] p. 15-16 [REDACTED] p. 17 [REDACTED] p. 34 [REDACTED]
135	Unseal	n/a

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140	Redact	p. 12-13 [REDACTED] p. 18-20 [REDACTED] p. 48-49 [REDACTED] p. 61-62 [REDACTED]
141	Redact	p. 44-45 [REDACTED] p. 53-54 [REDACTED] p. 57 [REDACTED] p. 65 [REDACTED] p. 69 [REDACTED]
142-1	Redact	JA-100 [REDACTED] JA-115-116 [REDACTED]
142-2	Redact	JA-298-391 [REDACTED] [REDACTED] [REDACTED]
142-3	Redact	JA-392-460 [REDACTED] [REDACTED] [REDACTED] JA-481-489 [REDACTED] JA-496-551 [REDACTED] JA-584 [REDACTED] JA-585 [REDACTED]
143-1	Redact	JA-668-670 [REDACTED] JA-734-738 [REDACTED]
143-2	Redact	JA-815 [REDACTED] JA-819 [REDACTED] JA-842-843 [REDACTED] JA-846(PSR)

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		JA-914 [REDACTED] JA-916 [REDACTED] JA-939-940 [REDACTED]
143-3	Unseal	n/a
143-4	Redact	JA-1251-1294 [REDACTED]
148	Unseal	n/a
149	Unseal	n/a
150	Unseal	n/a
170	Unseal	n/a
175	Unseal	n/a
176	Unseal	n/a
177	Unseal	n/a
178	Unseal	n/a
179	Redact	p. 11 [REDACTED] p. 15 [REDACTED] p. 28-31 [REDACTED] p. 40 [REDACTED]
180	Unseal	n/a
182	Unseal	n/a
183	Redact	p. 11 [REDACTED] p. 15 [REDACTED] p. 28-31 [REDACTED] p. 39-40 [REDACTED]
185	Unseal	n/a
189	Unseal	n/a

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192	Unseal	n/a
194	Unseal	n/a
195	Unseal	n/a
198	Unseal	n/a
201	Unseal	n/a
204	Unseal	n/a
209	Unseal	n/a
217	Unseal	n/a
218	Unseal	n/a
220	Unseal	n/a
224	Unseal	n/a
225	Unseal	n/a
230	Unseal	n/a
234	Unseal	n/a
236	Unseal	n/a
242	Unseal	n/a
250	Unseal	n/a
253	Unseal	n/a
255	Unseal	n/a
256	Unseal	n/a
259	Unseal	n/a
262	Unseal	n/a
266	Redact	p. 17-18 [REDACTED]
269	Unseal	n/a
278	Unseal	n/a

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281	Unseal	n/a
283	Unseal	n/a
286	Redact	p. 13-14 [REDACTED]
295	Unseal	n/a
296	Unseal	n/a
298	Unseal	n/a
303	Unseal	n/a
306	Redact	p. 12-13 [REDACTED]
309	Seal	[REDACTED]
314	Redact	p. 7 [REDACTED] p. 8 [REDACTED] p. 11 [REDACTED] p. 12 [REDACTED]
316	Unseal	n/a
317	Unseal	n/a
319	Redact	p. 7 [REDACTED]
327	Unseal	n/a
328	Redact	p. 2 [REDACTED]
330	Seal	[REDACTED]
335	Redact	p. 7 [REDACTED]
337	Redact	p. 7 [REDACTED]
338	Unseal	n/a
341	Unseal	n/a
343	Unseal	n/a
347	Redact	p. 17-18 [REDACTED]

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		p. 21-22 [REDACTED] p. 42 [REDACTED]
359	Unseal	n/a
360	Unseal	n/a
361	Unseal	n/a
376	Unseal	n/a

For the foregoing reasons, we respectfully request that the documents at issue be sealed or unsealed, in whole or in part, as indicated above.

Additionally, pursuant to the Second Circuit's prior orders and this Court's May 10, 2017 order, we respectfully request that this letter be filed under seal and ex parte except as to the Government.

The Court's attention and consideration is greatly appreciated.

Respectfully,

/S/

Robert S. Wolf